89-1727

Supreme Court, U.S.
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JOSEPH F. SPANIOL, JR.
CLERK

Case No.

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1989

DEBORAH JEAN SAPIA,
PETITIONER

v.

CHARTER MARKETING COMPANY, GEORGE YOUNG, EARL KIGHT, JR., CAPITOL CITY CREDIT COMPANY, JACK SMITH, CREDIT BUREAU SERVICES, FRANK MOZZICATO, HARTFORD HOSPITAL, RICHARD A. LAWSON, MARGE RAMSDELL, AND JOHN S. GUTMAN,
RESPONDENTS

and

CONNECTICUT NATIONAL BANK, JOHN F. STOCKINGER, AND OSWALD ANTHONY SHERWOOD,
RESPONDENTS

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

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PRO SE PETITIONER

QUESTIONS PRESENTED

SUBSTANTIVE

1. Does a person who has been blacklisted have a constitutional right to redress?
2. What are the practical parameters of the "special circumstances" the Courts have noticed in allowing a relazation of the statutes of limitation?
3. If a plaintiff, for reasons beyond her control, is prevented from obtaining private counsel and is forced to proceed pro se, does denial of pro bono counsel by a Court amount to a breach of due process and equal protection of the laws?

PROCEDURAL

1. Were certain elements of the lower Courts' reasoning prejudicial and discriminatory toward petitioner?
2. Did certain actions of the lower courts constitute breaches of due process and equal protection of the laws?

PARTIES TO THE PROCEEDING

A. The list of parties pertinent to this petition include: Deborah Jean Sapia, petitioner. Charter Marketing Company, George Young, Earl Kight, Jr., Hartford Hospital, Richard A. Lawson, Marge Ramsdell, Capitol City Credit Company, Jack Smith, Frank Mozzicato, Credit Bureau Services and John S. Gutman, Respondents (USCA Case No. 89-7658) and Connecticut National Bank, John F. Stockinger, and Oswald Anthony Sherwood, Respondents (USCA Case No. 89-7850).

B. The complete list of parties as originally entered in the Complaint filed in the U.S. District Court for the district of Connecticut (Case no. H-87-962, Peter C. Dorsey), is as follows: Deborah Jean Sapia, Plaintiff. Charter Marketing Company, George Young, Earl Kight, Jr., Donald E. Wasik, Robert M. Langer, Leon G. Philbrick, James L. Kestell, Frank

Mozzicato, Capitol City Credit Company, Jack Smith, Credit Bureau Services, James P. Connolly, Hartford Hospital, Richard A. Lawson, Marge Ramsdell, Willis A. Benham, Rolf H. Olson, Connecticut National Bank, John F. Stockinger, Oswald Anthony Sherwood, Company X, Samuel F. Petrus, Coburn & Meredith, Inc., Barry M. Coburn, Thomas M. Meredith and John S. Gutman, Defendants.

C. The respondents comprise those people in authoritative and/or fiduciary relationship to petitioner who abused that privilege during petitioner's employment history especially as it relates to her credit records.

D. The remainder of defendant parties not covered here were either lost in the District--Appellate Court shuffle or have yet to be decided under case no. 89-7888 in the U.S. Court of Appeals. The remaining defendant parties should be incorporated into this petition as those parties did not act independently and should not be separate.

PETITIONER'S REQUEST TO HAVE THIS CASE CONSIDERED UNDER SUPREME COURT RULE 12.2

Petitioner requests that her case be considered under Supreme Court Rule 12.2 to reunite the three (3) separate cases all involving identical questions from the U.S. Court of Appeals that originally comprised the Complaint (H-87-962 P.C.D.) filed in the U.S. District Court for the District of Connecticut. Those three cases are: USCA Cases no.: 89-7658, 89-7850, and 89-7888.

This edition of Petitioner's request for Writ of Certiorari includes only cases numbered 89-7658 and 89-7850. Case no. 89-7888, as yet undecided by the U.S. Court of Appeals, should be joined into this petition to comply with Rule 12.2.

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TABLE OF AUTHORITIES

Petitioner incorporates by reference all the cases, provisions, statutes and references previously cited in her documents; and includes the following:

UNITED STATES v. GRINNELL CORP.
384 U.S. 563, 583 (1966)

STATEMENT OF JURISDICTIONAL GROUNDS

The dates of the judgments sought to be reviewed are December 18, 1989 and February 7, 1990. (See Joint Appendix for full text.) This Court's jurisdiction is conferred by Supreme Court Rule 17 and by Title 28 United States Code, Section 1254.

STATEMENT OF FEDERAL JURISDICTION

The court of first instance had federal jurisdiction conferred by Title 28 United States Code, Sections 1331, 1337, and 1343 and Title 15 United States Code, Sections 4, 15, 26, and 1681(p).

CONSTITUTIONAL INVOLVEMENT

The Constitutional provisions that this case involves are:

A. United States Constitution, Fifth Amendment: "...nor be deprived of life, liberty or property, without due process of law;"

B. United States Constitution, Fourteenth Amendment: "...nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

C. Constitution of the State of Connecticut Article First, Section 10: "All courts shall be open, and every person, for an injury done to him in his person, property or reputation, shall have remedy by due course of law and right and justice administered without sale, denial or delay."

STATEMENT OF THE CASE

In 1973, petitioner began experiencing troubles in her employment. Not knowing the true nature of her problem, petitioner managed to secure a series of jobs but was constructively discharged from each as a proximate result of the blacklisting that was actually being effected against her. In an effort to remedy her situation (as she understood it), petitioner contacted a variety of individuals, lawyers, agencies and officials for help. Instead she received benign neglect at best or, more commonly, concealment or antagonism. Thwarted in her efforts to achieve redress through customary channels, petitioner was forced to construct a Pro Se Complaint which was filed in December, 1987. Ignoring the special circumstances of petitioner's case and denying pro bono counsel appointment, the District Court Judge chose a narrow interpretation of the statutes of limitation defense and summarily dismissed the case. Upon cursory review, the Second Circuit Court of Appeals affirmed.

ARGUMENTS IN SUPPORT OF PETITION

Petitioner avers that this case contains important federal issues and avers that it is appropriate, indeed necessary, for this Court to exercise its powers of circumspection and determination by granting a review on Writ of Certiorari. Based on the complexity of the case, petitioner has requested transmission to this court of the entire record to facilitate a full understanding. Petitioner incorporates by reference all previously published arguments and offers below a brief synopsis.

The District Court and Court of Appeals erred in their handling of this case in two major ways. First, the Courts unjustifiably failed to take judicial notice of petitioner's just cause reasons for relaxation of the statutes of limitation. Specifically, the Courts ignored the circumstances of fraud, concealment, constitutional remedy, duress, attorney malpractice, and due diligence which contributed to plaintiff's inability to bring timely suit.

Indeed, but for the subversive actions of various defendants, timely suit would have been brought. Therefore, for the courts to rule for the repose of the defendants against the loss of life, liberty and property suffered by petitioner is preposterous legal reasoning. The existence of petitioner's timely and diligent attempts to remedy the character assassination and that these attempts were subverted should have been given judicial notice and the statutes of limitation defense disallowed.

Having been blacklisted by private employers and government agencies and officials, petitioner could find no such Federal statutory wrong and so was forced to combat these abuses of power by breaking blacklisting into its component parts (boycott, fair credit reporting, fraud and concealment, private antitrust, conspiracy and defamation) and pursuing each part individually. Given the chance, petitioner can prove the elements of

her causes of action, yet inherent in the lower Courts' rulings is the prejudicial assumption of basic unprovability. Why else would the Courts not require reframing, not allow meaningful discovery, or not allow representation?

Second, several actions of the Courts abridged petitioner's rights of due process and equal protection of the laws. Specifically: (1) District Court Judge allowed attorney abuses such as unreasonable delay by using "vacation" three consecutive times, late filing of supporting memorandum after the motion had been filed, and failure to comply with a motion to compel production.

(2) Given the time necessary to reply to a flurry of opponent's motions and the limited financial resources available to plaintiff, the timeframe placed on discovery by the District Court Judge essentially blocked discovery. (3) District Court Judge mishendled the representation issue. On

February 13, 1989 he gave a handwritten approval for second appointment for pro bono counsel. Then, for no reason, he reversed his order on May 1, 1989. He never investigated the first attorney's comments and never asked petitioner about the subject. Based almost exclusively on assumption rather than involvement and knowledge, the Judge's decision was biased in that it did not stem from a meaningful participation in the case (United States v. Grinnell Corp. 384 U.S. 563 et. seq. 1966). That neither lower court knew the true circumstances of the first appointment of pro bono representation is further proven by this quote from page 2 of the Circuit Court's December 18, 1989 Ruling: "Given appellant's apparent (emphasis added) inability to property use the services of her previously appointed counsel..." To reverse field on a subscribed approval of appointment was an egregious procedural error. To deny appoint-

ed counsel based on misperceptions was not a decision of sound, defensible discretion in such a complex case.

In summary, the lower courts erred in that they (1) decided federal questions in conflict with established precedent, and (2) departed and sanctioned departure from the accepted and proper course of judicial proceedings.

Respectfully submitted,

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May 4, 1990